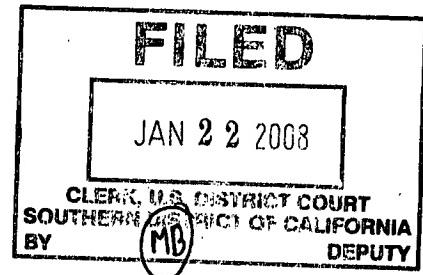


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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA, ) Criminal Case No. 07CR3162-L

11 Plaintiff,

v.

13 JESUS MUNOZ, JR. (1),

Defendant.

Criminal Case No. 07CR3162-L

**STIPULATION OF FACT AND JOINT  
MOTION FOR RELEASE OF  
MATERIAL WITNESSES AND  
ORDER THEREON**

## **(Post-Indictment Fast-Track Program)**

16       **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES  
17 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Eugene  
18 S. Litvinoff, Assistant United States Attorney, and defendant JESUS MUÑOZ, JR., by and through  
19 and with the advice and consent of defense counsel, Paul Turner, Esq., that:

20       1.     Defendant agrees to execute this stipulation on or before the disposition date and to  
21 participate in a full and complete inquiry by the Court into whether defendant knowingly,  
22 intelligently and voluntarily entered into it. Defendant agrees further to plead guilty to Count 1 of  
23 the Indictment which charges defendant with a non-mandatory minimum count of Transportation  
24 of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii) and (v)(II).

25       2. Defendant agrees to plead guilty to the charge described above pursuant to the plea  
26 agreement on or before **February 11, 2008**.

27

28

1           3. The material witnesses, Fermin Tapia-Barrera, Avelino Sanchez-Merino, and Roberto  
2 Ramirez-Hernandez, in this case:

- 3           a. Are aliens with no lawful right to enter or remain in the United States;  
4           b. Entered or attempted to enter the United States illegally on or about October  
5 21, 2007;  
6           c. Were found in a vehicle driven by defendant at the Interstate-15 U.S. Border  
7 Patrol Checkpoint, Murrieta, California, and that defendant knew or acted in reckless disregard of  
8 the fact that they were aliens with no lawful right to enter or remain in the United States;  
9           d. Were paying between \$1500 and \$2000 to others to be brought into the United  
10 States illegally and/or transported illegally to their destination therein; and,  
11           e. May be released and remanded immediately to the Department of Homeland  
12 Security for return to their country of origin.

13          4. After the material witnesses are ordered released by the Court pursuant to this  
14 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any  
15 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,  
16 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

- 17           a. The stipulated facts set forth in paragraph 3 above shall be admitted as  
18 substantive evidence;  
19           b. The United States may elicit hearsay testimony from arresting agents  
20 regarding any statements made by the material witness(es) provided in discovery, and such testimony  
21 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest  
22 of (an) unavailable witness(es); and,  
23           c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),  
24 “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted  
25 and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant  
26 waives the right to confront and cross-examine the material witness(es) in this case.

27          5. By signing this stipulation and joint motion, defendant certifies that defendant has

28 Stipulation of Fact and Joint Motion for Release of  
Material Witness(es) And Order Thereon in  
United States v. Jesus Munoz, Jr. (1)

1 read it (or that it has been read to defendant in defendant's native language). Defendant certifies  
2 further that defendant has discussed the terms of this stipulation and joint motion with defense  
3 counsel and fully understands its meaning and effect.

4 Based on the foregoing, the parties jointly move the stipulation into evidence and for the  
5 immediate release and remand of the above-named material witness(es) to the Department of  
6 Homeland Security for return to their country of origin.

7 It is STIPULATED AND AGREED this date.

8 Respectfully submitted,

9  
10 KAREN P. HEWITT  
United States Attorney

11 Dated: 1/22/08

EUGENE S. LITVINOFF  
Assistant United States Attorney

12 Dated: 1-22-08

13 PAUL TURNER  
14 Defense Counsel for Jesus Munoz, Jr.  
15

16 Dated: 1-22-08

17 JESUS MUNOZ, JR.  
Defendant

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19 ORDER

20 Upon joint application and motion of the parties, and for good cause shown,

21 **THE STIPULATION** is admitted into evidence, and,

22 **IT IS ORDERED** that the above-named material witness(es) be released and remanded  
23 forthwith to the Department of Homeland Security for return to their country of origin.

24 **SO ORDERED.**

25 Dated: 1/22/08

26   
United States Magistrate Judge